

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Valor Telecommunications, LLC, Transferor,)	WC Docket No. 04-156
and Shareholders of Valor Communications Group,)	
Inc., Transferees)	
)	
Application for Transfer of Control of Domestic)	
and International Authority Under Section 214)	
of the Communications Act, as Amended)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45

REPLY COMMENTS OF VALOR

Valor Telecommunications, LLC and Valor Communications Group, Inc. (collectively “Valor”) submit this reply in response to the comments of Western Wireless Corporation (“Western Wireless”)¹ in the above-captioned proceeding.² Western Wireless does not oppose the initial public offering of Valor proposed in the above-captioned application for transfer of domestic Section 214 authority (“Application”), implicitly acknowledging that no competitive or other public interest basis exists for denial of the Application.³ Instead, it asks the FCC to remove the Application from streamlined processing and delay further action until the Commission resolves other

¹ Comments of Western Wireless Corporation (“Western Wireless Comments”) (filed May 11, 2004).

² *Public Notice*, “Domestic Section 214 Application Filed for Transfer of Control of Valor Telecommunications LLC,” WC Docket No. 04-156, DA 04-1141 (rel. Apr. 27, 2004) (“Valor Public Notice”).

³ Western Wireless Comments at 2. Western Wireless did not file comments in response to Valor’s international section 214 application, and that application was deemed granted on May 14, 2004. *See Public Notice*, “Streamlined International Applications Accepted for Filing,” File Nos. ITC-T/C-20040412-00157, ITC-T/C-20040423-00166, ITC-T/C-20040423-00167, Report No. TEL-00786S (rel. Apr. 30, 2004).

proceedings unrelated to the Application.⁴ Western Wireless' request is contrary to Commission rules and precedent, is procedurally abusive, and thus should be summarily denied.

The Application seeks approval to transfer control of Valor subsidiaries holding Section 214 authority to VCG's public shareholders, pursuant to an internal corporate reorganization and a subsequent initial public offering of VCG stock.⁵ The FCC has already determined that the application qualifies for presumptive streamlined treatment under its rules,⁶ which enumerate those categories of applications that are "extremely unlikely to raise the potential of public interest harm."⁷ The Application qualifies for streamlined treatment under several of these categories: Valor's market share in the interstate, interexchange market will be less than 10 percent; Valor will provide competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by a non-dominant LEC that is not a party to the transaction; and Valor is an incumbent LEC that has fewer than two percent of the nation's subscriber lines in the aggregate nationwide.⁸ Furthermore, the proposed IPO inherently raises no competitive concerns because it would not result in a transfer of access lines or any material change in the services provided by Valor.⁹

Western Wireless has not challenged Valor's eligibility for streamlined processing under the categories set forth in the Commission's rules, nor has it identified any additional competitive concern that would justify removing the Application from

⁴ Western Wireless Comments at 2-3.

⁵ Valor Public Notice at 2-3.

⁶ *Id.* at 3.

⁷ *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, 17 FCC Rcd 5517 (2002) at ¶ 28 ("Domestic 214 Streamlining Order").

⁸ Valor Public Notice at 1; *see* 47 C.F.R. § 63.03(b).

⁹ Valor Public Notice at 3.

streamlined treatment.¹⁰ Instead, Western Wireless argues that the Commission must delay acting on the Application until it has resolved three pending proceedings concerning Valor's universal service support.¹¹

This request is frivolous and procedurally abusive. The FCC has stated on multiple occasions that its review of transfer of control applications is limited to the benefits and harms arising from the particular transaction and that it will not delay approval based on the pendency of unrelated proceedings.¹² The proceedings cited by Western Wireless do not raise any competitive issue relevant to the agency's review of the instant Application and cannot justify removal of the Application from streamlined treatment. Indeed, the Commission approved the initial transfer of exchanges from GTE that created Valor despite the fact that one of the proceedings cited by Western Wireless was already pending.¹³ Furthermore, to the extent that Western Wireless's comments are

¹⁰ See *Domestic 214 Streamlining Order* at ¶ 44 ("the Commission should ensure that important public interest concerns, such as the control of exercise of market power and the promotion of competition in the local exchange markets, are adequately protected by any new streamlined rules. Therefore, the Commission may remove such applications from streamlined processing when it finds, or when comments raise, significant public interest concerns requiring further inquiry and resolution") (emphasis added).

¹¹ Western Wireless Comments at 2-3. These proceedings include Valor's petition for a narrow, limited waiver of Section 54.305 of the Commission's rules, and two petitions filed by Western Wireless challenging Valor's self-certification as a rural telephone company. See *Valor Telecommunications of Texas, L.P. Petition for Waiver of Section 54.305 of the Commission's Rules*, CC Docket No. 96-45 (filed Apr. 11, 2003) (see also Public Notice, 18 FCC Rcd 9040 (Wir. Com. Bur. 2003)); *Western Wireless Petition to Reject Rural Telephone Company Self-Certification*, CC Docket No. 96-45 (filed Jul. 27, 2000) (see also Public Notice, 15 FCC Rcd 15123 (Com. Car. Bur. 2000)); *Western Wireless Petition to Reject Valor's Self-Certification as a Rural Telephone Company in Oklahoma*, CC Docket No. 96-45 (filed Sept. 16, 2003) (see also Public Notice, 18 FCC Rcd 20266 (Wir. Com. Bur. 2003)).

¹² See, e.g. *Chadmoore Wireless Group, Inc. and Various Subsidiaries of NEXTEL Communications, Inc.*, 16 FCC Rcd 21105 (2001) at ¶ 18; *Motorola, Inc., Motorola SMR, Inc., and Motorola Communications and Electronics, Inc., Assignors, and FCI 900, Inc., Assignee, For Consent to Assignment of 900 MHz Specialized Mobile Radio Licenses*, 16 FCC Rcd 8451 (2001) at ¶ 37; *General Motors Corporation and Hughes Electronics Corporation, Transferors, and The News Corporation Limited, Transferee, For Authority to Transfer Control*, FCC 03-330 (2004) at ¶ 131 ("News Corp./DIRECTV Order").

¹³ See *Valor Telecommunications of Texas, LP and GTE Southwest Incorporated (Joint Petition for Waiver of the Definition of "Study Area" Contained in the Part 36 Appendix-Glossary of the Commission's Rules)*, 15 FCC Rcd 15816, n.2 (approving study area waiver petition to permit transfer of GTE exchanges to Valor, and acknowledging that the Commission would consider Western Wireless's petition to reject Valor's rural self-certification in a separate order).

aimed at challenging “the broader context” of the Commission’s universal service and access charge regime governing rural and/or rate-of-return ILECs,¹⁴ Western Wireless has had ample opportunity to voice those concerns in the relevant rulemaking dockets, and it would be inappropriate to resolve those issues here.¹⁵

Western Wireless also argues that the valuation of VCG’s initial public offering could be “skewed” if the offering was consummated prior to resolution of the pending universal service proceedings.¹⁶ Putting aside the purposely inflammatory and intentionally misleading nature of its comments, the issues that Western Wireless raises have no factual basis, and, for several reasons, the FCC should disregard the Western Wireless comments. First, even if the Commission adopted the Western Wireless position in each of the proceedings cited by Western Wireless, an unfavorable outcome in these proceedings, either individually or cumulative, will not have a material financial impact on Valor.¹⁷ Second, by the time of the initial public offering, Valor will have complied with the requirements of the Securities and Exchange Commission with respect to the financial information contained in its Registration Statement and disclosure regarding risk factors relevant to its business.¹⁸ Western Wireless has no facts to support its thinly veiled suggestions to the contrary. Finally, the proper valuation of the public

¹⁴ Western Wireless Comments at 3-4, 7.

¹⁵ See *News Corp./DIRECTV Order* at ¶ 131 (“An application for a transfer of control of Commission licenses is not an opportunity to correct any and all perceived imbalances in the industry. Those issues are best left to broader industry-wide proceedings.”).

¹⁶ Western Wireless Comments at 6. All of three of these proceedings have included oppositions or petitions by Western Wireless. Valor has demonstrated in each of these proceedings that Western Wireless’s position is incorrect.

¹⁷ All three of the proceedings cited by Western Wireless concern Valor’s high-cost support, which amounts to less than one percent of the company’s total revenues (as disclosed in Valor’s S-1 filing with the SEC). See *Valor Communications Group, Inc., Form S-1 Registration Statement Under the Securities Act of 1933* (Apr. 7, 2004) at 70 (“the federal high cost support we receive today is less than one percent of our total revenues”).

¹⁸ *Id.* Valor also separately disclosed Western Wireless’s challenges to its rural self-certification in the S-1 filing. See *id.* at 71 (“A wireless carrier has challenged our certification at the FCC on two occasions, and these challenges have been pending since 2000 and 2003”).

offering is a business judgment for Valor's management – and ultimately the market – to make, not Western Wireless or the Commission. For Section 214 purposes, the alleged financial impact of unrelated contested proceedings has no role in the Commission's public interest review of a transaction. Western Wireless's reasoning, if extended to its logical extreme, would require the Commission to delay approval of any transaction involving a licensee whose revenues could be adversely impacted by a pending FCC proceeding – which conceivably includes *any* transaction involving a Commission licensee.

For the above reasons, the FCC should deny Western Wireless's request to remove Valor's Application from streamlined processing.

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CERTIFICATE OF SERVICE

I, Chin Kyung Yoo, hereby certify that on this 18th day of May, 2004, I caused a copy of the foregoing to be sent via electronic mail to:

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